



County of Los Angeles
CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

September 23, 2011

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To: Mayor Michael D. Antonovich
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From: William T Fujioka
Chief Executive Officer

MOTION TO SUPPORT LEGISLATIVE EFFORTS THAT PROVIDE THE SAME EXPEDITED JUDICIAL REVIEW PROCESS PROVIDED IN SB 292 (PADILLA) FOR THE DEVELOPMENT OF PROJECTS THAT PROVIDE VITAL PUBLIC SERVICES AND OTHER GOVERNMENT CAPITAL PROJECTS THAT SERVE THE PUBLIC INTEREST (ITEM NO. 18, AGENDA OF SEPTEMBER 27, 2011)

Item No. 18 on the September 27, 2011 Agenda is a motion by Mayor Antonovich to direct the Chief Executive Officer and Legislative advocates to support legislative efforts that provide the same expedited judicial review process provided in SB 292 (Padilla) for the development of projects that provide vital public services, including hospitals, health clinics, fire and police/sheriff stations, communication facilities/systems, libraries, schools, transportation projects, and other vital government capital projects in the County of Los Angeles that serve the public interest, as well as commercial, sports, cultural, recreational and clean energy projects.

Existing Law

Under existing law, the California Environmental Quality Act (CEQA) requires a lead agency with the principal responsibility for carrying out or approving a proposed discretionary project to evaluate the environmental effects of its action and prepare a negative declaration, mitigated negative declaration, or Environmental Impact Report (EIR). If an initial study shows that the project may have a significant effect on the environment, the lead agency must prepare an EIR. A lead agency must base its determination of significant effects on substantial evidence. Current law also authorizes judicial review of CEQA actions taken by public agencies, following the agency's decision to carry out or approve the project. Challenges alleging improper determination that a project may have a significant effect on the environment, or alleging an EIR does not comply with CEQA, must be filed in the superior court within 30 days of filing of the notice of approval.

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SB 292 (Padilla) – The Modernization of the Los Angeles Convention Center and Farmers Field Project

SB 292, if approved by Governor Brown, would establish an expedited judicial review; procedures for a lead agency relative to handling the EIR; and require implementation of specified traffic and air quality mitigation measures under CEQA for the proposed downtown Los Angeles Convention Center modernization and Farmers Field Project. Specifically, this bill would:

- Set specified time frames and deadlines for filing and responding to challenges of the EIR for a downtown stadium in the City of Los Angeles.
- Permit the court of appeals to appoint, or the applicant to request, a Special Master to assist in the expedited review of the appeal. The applicant would be responsible for up to \$150,000 in reasonable costs for this appointment. If the court finds that costs will exceed \$150,000, it may request additional funds from the applicant, and if the applicant agrees to provide more funds, the court may use them to pay the additional costs of the Special Master.
- Require the stadium project to reduce greenhouse gas emissions in the proposed stadium site and produce a report to document those efforts.
- Require the project's vehicle trip ratio to be less than 90 percent of other stadiums serving a National Football League team. A report documenting efforts to achieve this would also be required. If a trip ratio of less than 90 percent is not reached, the bill would establish specific actions that may be required of the applicant to help achieve that goal, such as providing more public transit options.

The bill would also establish an expedited judicial review process in which any party with any concern could seek a judicial review directly with the court of appeals, bypassing the superior court. Additionally, once in court, both parties would be required to adhere to strict time limits provided for judicial review, which would be 175 days from start to finish.

AB 900 (Buchanan) - The Jobs and Economic Improvement through Environmental Leadership Act of 2011

In addition to SB 292, the Legislature passed AB 900 (Buchanan), which if approved by Governor Brown, would enact the Jobs and Economic Improvement through Environmental Leadership Act of 2011, and it would establish specified judicial review of an EIR and approvals of leadership projects related to the development of a residential, retail, commercial, sports, cultural, entertainment, recreational use, clean renewable energy or clean energy manufacturing projects.

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AB 900 would authorize the Governor to certify a leadership project for streamlining if specific conditions are met. The bill also would set specified time frames and deadlines for filing and responding to challenges of an EIR leadership project allowed under CEQA.

Under AB 900, the Governor would issue guidelines regarding application and certification of projects pursuant to specified provisions, which would not be subject to the rulemaking provisions of the Administrative Procedure Act. If the Governor determines that a leadership project is eligible for streamlining, the determination and any supporting information would be submitted to the Joint Legislative Budget Committee for review and consideration for concurrence.

AB 900 also would set specified time frames and deadlines for filing and responding to challenges and establish an expedited judicial review, allowing any party with concerns to seek judicial review directly in the court of appeals, bypassing superior court, thereby expediting judicial review. Once in court, both parties would be required to adhere to strict time limits provided for judicial review. This process is similar to SB 292.

SB 292 and AB 900 are currently on the Governor's Desk awaiting consideration.

According to County Counsel, in the event that the County decided to challenge any project that qualifies under SB 292 or AB 900, including the EIR, the County would be subject to the same expedited timelines and procedures expected from any other challenger. Further, in the event that the County is the lead agency for a project, the County will also be required to comply with those requirements. The Department of Regional Planning concurs with comments made by County Counsel.

Because there is no existing Board policy to direct the Chief Executive Officer and Legislative advocates to support legislative efforts that provide the same expedited judicial review process provided in SB 292 for the development of projects that provide vital public services, including hospitals, health clinics, fire and police/sheriff stations, communication facilities/systems, libraries, schools, transportation projects, and other vital government capital projects in the County of Los Angeles that serve the public interest, as well as commercial, sports, cultural, recreational and clean energy projects, support for this motion is a matter for Board policy determination.

WTF:RA
MR:GA:sb

c: Executive Office, Board of Supervisors
County Counsel